

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

:

v.

:

CRIMINAL NO. 15-104

XIAOXING XI

:

:

ORDER

AND NOW, this 15<sup>th</sup> day of June 2015, upon consideration of the Government's Motion to Designate this a Complex Case, to Continue the Trial Date, and for a Pretrial Conference Pursuant to the Classified Information Procedures Act, it is ORDERED AND DECREED that the government's motion is GRANTED.

In granting this motion, the Court makes the following findings:

1. In the instant case, defendant Xiaoxing Xi is charged with devising and intending to devise a scheme to defraud a U.S. company in order to obtain its technology, provide it to entities in China, assist these entities in further exploitation and use of the technology, and to obtain for himself and for entities in China money and property by means of false and fraudulent pretenses, representations and promises.

2. This indictment is the result of an intense investigation conducted by the Federal Bureau of Investigation, during which the government seized extensive electronic evidence and searched multiple hard drives.

3. The government is in the process of compiling a detailed inventory of discovery, and defense counsel will require considerable time to review this discovery adequately in preparation for the filing of pretrial motions and for trial.

4. In addition, the government has filed a Notice of Intent to Use Foreign Intelligence Surveillance Act Information, and the government anticipates that issues relating to classified information will arise. Thus, pretrial motions in this matter are anticipated to raise complex issues, including issues implicating the Classified Information Procedures Act ("CIPA"), codified at 18 U.S.C. App. III, and will require substantial time to prepare.

5. On June 9, 2015, this Court issued an Order scheduling trial in this matter to begin on July 13, 2015. Pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, trial must ordinarily commence within seventy (70) days of the date on which a defendant makes his initial appearance. However, the Speedy Trial Act permits the Court to continue the trial when "the case is so unusual or so complex due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section." 18 U.S.C. § 3161(h)(8)(B)(ii). In the alternative, § 3161(h)(8)(B)(iv) provides that if the case, "taken as a whole, is not so unusual or so complex as to fall within clause (ii)," the Court may allow a continuance in the ends of justice if the failure to grant a continuance "would deny counsel for a defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence."

Accordingly, this Court finds that, due to anticipated issues relating to classified information, as well as due to the nature and quantity of the evidence in this case, this case is so

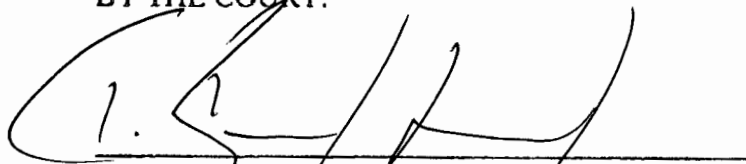
complex that it is unreasonable to expect adequate preparation for pretrial proceedings and trial within the time limits established by the Speedy Trial Act, 18 U.S.C. § 3161(c)(1). The Court further finds that the interests of justice to all parties served by a delay in the trial outweigh the interests of the public and the defendant in a speedy trial.

IT IS FURTHER ORDERED AND DECREED that the Counsel shall appear in chambers for a bifurcated in camera pretrial conference pursuant to Section 2 of CIPA, 18 U.S.C. App. III § 2, as follows:

- a. Counsel for the government only shall first appear on July 1, 2015, at 2:00p.m., for an ex parte, in camera classified conference with the court; and
- b. All counsel shall then appear on August 27, 2015, at 2:00p.m. for an in camera conference to discuss the discovery and motion plan more generally.

SO ORDERED, this 5<sup>th</sup> day of June, 2015.

BY THE COURT:

  
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HONORABLE R. BARCLAY SURRICK  
Judge, United States District Court

6/15/15 faxed to: Williams Zeidenberg Schwartz